

### REMARKS

Claims 1 - 10 are in the application. Reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. 102(e) as being anticipated by Darras et al., are respectfully requested.

With respect to claim 1, the Examiner will note that the language "insertable material" has been deleted. The use of this term was due to a translation error and the term is no longer used.

Accordingly, the rejection of claim 1 under 35 U.S.C. 112, second paragraph, should be withdrawn.

Claim 1 has been amended to make it clear that the container according to the present invention is configured to be filled with a beverage. Therefore, it is clear that the invention is directed to preventing the discharge of a substance from the wall material of the container and into the beverage.

While it is true that in the reference to Darras it has been mentioned in paragraph [0024] that the barrier layer prevents a migration of substances from the container material into a packaged liquid, however, it was not recognized that such a barrier property makes it possible to use container materials which without the appropriate barrier coating are not suitable for

packaging beverages. As also correctly pointed out by the Examiner, the materials used for this purpose in the reference are PET or PEN. These materials have permits from the FDA in the United States and can therefore also be used without barrier layers for packaging beverages.

In summary, in the reference to Darras, the physical effect of the barrier layer for preventing migrations has been recognized, however, the reference does not draw the conclusion, as is the case in the present invention, that the use of otherwise unsuitable materials is possible.

Accordingly, even in combination with the reference to Namamachi, in which a plurality of different polyesters and manufacturing methods for such polyesters are described, the reference to Darras cannot disclose or suggest the present invention as claimed.

Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.



Respectfully submitted,

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on June 3, 2009.

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